

TRAFFICKING IN PERSONS REPORT 2010

NEPAL (Tier 2)

Nepal is mainly a source country for men, women, and children who are subjected to trafficking in persons, specifically commercial sexual exploitation and forced labor within the country and abroad. NGOs continue to report an increase in both transnational and domestic trafficking, although a lack of reliable statistics makes the problem difficult to quantify. Some Nepali women and girls are subjected to forced prostitution in Nepal, India, and the Middle East, and also are subjected to forced labor in Nepal and India as domestic servants, beggars, factory workers, and, to a lesser extent, circus entertainers. Nepali women are also forced to work in Nepal's growing pornography industry. They are subjected to forced prostitution and forced labor in other Asian destinations, including Malaysia, Hong Kong, and South Korea. Nepali boys also are exploited as forced domestic servants and – in addition to some Indian boys – are subjected to forced labor in Nepal, especially in brick kilns and the embroidered textiles industry. There is anecdotal evidence that Nepal's role as a destination for foreign child sex tourists is growing, possibly as efforts to confront this problem in traditional Southeast Asian destinations have become more effective. Several NGOs reported an increase in the number of teenage boys in Kathmandu engaged in prostitution; many of these boys are suspected to be trafficking victims. It is suspected that bonded labor remains a significant problem; many laborers who were freed in 2000 – when the government outlawed bonded labor – were not provided land as required by the law, leaving them vulnerable to falling back into exploitative labor.

According to the Department of Foreign Employment (DFE), approximately three million Nepalis have migrated to countries other than India for work, both through regular and irregular channels; India remains the most popular destination for Nepali workers. Many Nepali migrants seek work as domestic servants, construction workers, or other low-skill laborers in Gulf countries, Malaysia, Israel, South Korea, and Afghanistan with the help of labor brokers and manpower agencies. They travel willingly but subsequently face conditions of forced labor such as withholding of passports, restrictions on movement, non-payment of wages, threats, deprivation of food and sleep, and physical or sexual abuse. Some are deceived about their destination country, the terms of their contract, or are subjected to debt bondage, which can in some cases be facilitated by fraud and high recruitment fees charged by unscrupulous agents. While some workers migrate through legal or regular channels from Nepal directly, many others migrate via India; this is illegal, due to the 2007 Foreign Employment Act that requires all workers to leave for overseas work via Nepal's sole international airport in Kathmandu. Many migrants leave in this manner to avoid the scrutiny of a labor migration desk in the airport which examines the papers of all workers heading overseas.

According to law enforcement officials, trafficking is increasingly dominated by well-organized syndicates that are often family-based and involved in other criminal activities such as drug trafficking. Trafficking offenders are usually acquainted with the victims and provide parents of victims a "salary advance" in order to place the victims in a state of indebtedness. This indebtedness may be used to compel those victims to perform labor or a service to avoid threatened serious harm, particularly financial harm. Traffickers generally target uneducated people, especially from lower castes and other socially marginalized groups. However, a growing number of victims are relatively well-educated and from high castes, a development that reflects an increasingly dire economic situation.

The Government of Nepal does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so despite limited resources. The government continued modest efforts to prosecute traffickers and allocated financial support to NGO-operated rehabilitation centers. Trafficking-related complicity by government officials remained a serious problem in Nepal.

Recommendations for Nepal: Significantly increase law enforcement efforts against all types of trafficking, including bonded labor, forced child labor, fraudulent labor recruitment for the purpose of forced labor, and sex trafficking; increase law enforcement efforts against government officials who are complicit in trafficking; institute a formal procedure to identify victims of trafficking and refer them to protection services to ensure that they are not punished for unlawful acts committed as a direct result of being trafficked; improve protection services available for victims of all forms of trafficking; strengthen the National Human-Trafficking Task Force and complete implementation of

district-level antitrafficking committees; and put in place more effective tracking mechanisms for both sex and labor trafficking cases.

Prosecution

Nepal made some progress in its anti-trafficking law enforcement efforts over the reporting period. Through its 2007 Trafficking in Persons and Transportation (Control) Act, the government prohibits all forms of trafficking and prescribes penalties ranging from 10 to 20 years' imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The 2007 Foreign Employment Act, through its Chapter 9, criminalizes the acts of an agency or individual sending workers abroad based through fraudulent recruitment promises or without the proper documentation, prescribing penalties of three to seven years' imprisonment for those convicted; fraudulent recruitment for the purpose of exploitation constitutes human trafficking. The Nepal Police Major Crimes Unit and the Office of Attorney General reported 12 convictions, two less than in the previous year. The government did not provide the number of prosecutions or acquittals and the punishments, and did not disaggregate whether convictions were for sex or labor trafficking.

Trafficking-related complicity by government officials remained a serious problem in Nepal, with traffickers using ties to politicians, business persons, state officials, police, customs officials, and border police to facilitate trafficking. Many dance bars, "cabin restaurants," and massage parlors in Kathmandu that facilitate sex trafficking are reportedly co-owned by senior police and army officials. The large number of genuine Nepali passports containing false information that Indian officials have encountered in trafficking cases may be the result of some Nepali officials working with traffickers to provide them with these documents. Despite these serious concerns, there were no investigations, prosecutions, or convictions of government officials complicit in trafficking during the reporting period. No Maoist official has yet been charged in connection with the recruitment of child soldiers, which was a common practice during the 10-year insurrection, nor is the issue of child soldiers addressed in the pending legislation aimed at establishing a Truth and Reconciliation Commission. The Nepal Police routinely provide its personnel specific training on investigating trafficking cases; however, due to a lack of resources, the number of personnel trained has been limited.

Protection

Nepal made limited efforts to protect victims of trafficking during the reporting period. The Government of Nepal does not have a formal system of proactively identifying victims of trafficking among high-risk persons with whom they come in contact. Police made arrests during indiscriminate raids on commercial sex establishments but did not attempt to identify victims. In late 2009, police conducted a series of "blind" raids on establishments suspected for being fronts for prostitution. Dozens of "employees" – including children – were arrested. Despite indications that some of the women and most of the girls in those establishments were trafficking victims, the police made no effort to identify trafficking victims before releasing the women and girls. All facilities that assist trafficking victims were run by NGOs and most provided a range of services, including legal aid, medical services, psychosocial counseling, and economic rehabilitation. Even so, there were not facilities to meet the needs of all survivors. The Ministry of Women, Children and Social Welfare (MWCSW) allocated approximately \$110,000 in the 2009-2010 fiscal year for eight NGO-run shelter homes, three of which were already operating. MWCSW also allocated approximately \$275,000 to open 15 emergency shelters across the country for victims of abuse (including trafficking). The government rented several rooms near its embassies in Doha and Riyadh that were used as shelters for female migrant workers. District governments reportedly worked with NGOs to ensure that survivors were provided with available shelter and medical services; however, there was a severe shortage of facilities, and it was difficult to determine how many survivors received assistance because this number is not tracked. When 18 stranded Nepali workers were repatriated from Kuwait in December 2009, the Government of Kuwait provided the airline tickets and Nepal fed the workers for four months while arrangements for repatriation were made. In fiscal year 2008-2009, MWCSW used its small rehabilitation fund to assist in the repatriation of 16 trafficking victims from India. Nepal encouraged trafficking victims to participate in investigations against their traffickers but lacked sufficient resource to ensure their personal safety. Victims who were material witnesses in court cases were not permitted to obtain employment or leave Nepal until the case had concluded, and they were often pressured in their communities not to pursue a case; as such, many victims were reluctant to testify. Between early January to early February 2010, in a cooperative agreement between the Government of Nepal, the Maoists, and the UN, nearly 3,000 former child soldiers were released from UN-monitored Maoist cantonments, where they had been living since the signing of the November 2006 peace agreement. The

Government of Nepal provided rehabilitation services to those released from the cantonments.

Prevention

Nepal made limited efforts to prevent human trafficking during the reporting period. The federal government organized rallies to mark the third annual National Anti-Trafficking Day. Women Development Officers (WDOs) in trafficking-prone districts conducted awareness campaigns based on the direction of the federal government. The prime minister convened a cabinet-level task force on violence against women, including trafficking. A Joint Secretary and senior police officials participated in some high-level events to increase awareness of trafficking. In 2009, the government announced plans to post an additional five labor attachés in countries with a significant number of Nepali workers; however, this plan was stalled by a dispute between the Ministry of Labor and Transport Management and the Ministry of Foreign Affairs. Regardless, insufficient resources had limited the ability of attachés who had been posted to carry out their mandated duties. A National Human Trafficking Task Force exists but, according to senior government officials, had limited impact. The MWCSW was in the process of replacing its district task forces with anti-trafficking committees in all 75 districts, beginning with the 26 most trafficking-prone districts. In 2009, the MWCSW ordered its district-level women development officers to begin systematic tracking of trafficking-related developments, with assistance from these anti-trafficking committees. However, officials acknowledge that both the WDOs and the district committees will be constrained by insufficient resources. Despite national registration drives and committees responsible for registering births, the Central Child Welfare Committee in 2008 reported that only 40 percent of children had birth registration certificates. All Nepali military troops and police assigned to international peacekeeping forces were provided some pre-deployment anti-trafficking training funded by a foreign government. Nepal is not a party to the 2000 UN TIP Protocol.